

Risk Management Agency Interpretation of Federal Crop Insurance Corporation Provisions:

Subject: Request dated December 22, 2020, to the Risk Management Agency (RMA) for an interpretation for the 2017 policy year in the determination of whether section 9(g) of the 2017 Whole-Farm Revenue Protection (WFRP) Pilot Policy authorizes an Approved Insurance Provider (AIP) to revise an insured's commodity count or coverage level after coverage attaches.

The relevant policy provision provided by the requestor is section 9(g):

9. Coverage

- (g) *We will reduce your approved revenue and any indemnity or deny coverage at any time we become aware that the information used to determine your approved revenue is incorrect or is not supported by verifiable records. Your premium will be adjusted to reflect any revised approved revenue.*

Interpretation Submitted by Requestor(s)

The first requester's interpretation is the phrase "at any time" as used in section 9(g) of the WFRP Policy authorizes an insurance company to reduce the approved revenue, and those components used to determine approved revenue such as expected price after coverage attaches, including during the adjustment of the claim, if the insurance company concludes that the price, Expected Value or the Expected Yield used to establish coverage is incorrect or cannot be verified. This section does not, however, authorize the insurance company to change other portions of the policy, such as the "commodity count," which is determined by the insurance company pursuant to section 9(b). Once the AIP determines the "commodity count," the Insured chooses their coverage level pursuant to section 9(c). Section 9(g) by its plain language does not authorize changes to either the "commodity count" or the coverage level.

The second requester states, as a prefatory note, section 9(b) of the WFRP Policy provides that the commodity count "must" be determined "according to section 19." The second requester interprets that if, during the loss adjustment process, the AIP determines that the commodity count reported on the Farm Operation Report is greater than the number of commodities permitted under section 19, section 9(g) authorizes and allows the AIP to reduce "any indemnity" that is based on a commodity count that is not determined in accordance with section 19. The inclusion of "at any time" authorizes the AIP to revise the commodity count even after the policyholder submits a claim.

Federal Crop Insurance Corporation Determination

FCIC agrees with the first requester's interpretation and disagrees with the second requester's interpretation of section 9(g) of the 2017 WFRP Pilot Policy. Section 9(g) requires the AIP to reduce the insured's approved revenue, at any time, when it is determined the information used to determine the insured's approved revenue is incorrect or cannot be verified. Section 9(g) does not authorize the AIP to revise the insured's commodity count or coverage level, as neither are a factor of the insured's approved revenue.

However, the interpretation must be read with an understanding of the underlying assumption that an insured's reports are filed correctly, and the insured's policy is underwritten in accordance with policy and procedure published by RMA (i.e., section 19 of the 2017 WFRP Pilot Policy and paragraph 41 of the WFRP Pilot Handbook). If it is later determined the WFRP Pilot Policy provisions or WFRP Pilot

Handbook procedures were not applied correctly, the underwriting must be corrected to comply with the policy and procedure. If the underwriting correction results in a lower commodity count than was originally determined and the insured does not qualify for the coverage level elected, the coverage level must be reduced to the highest coverage level eligible per section 9(c)(2).

In accordance with section 33(a)(1) of the WFRP Pilot Policy, this FCIC interpretation is generally applicable and binding in any mediation or arbitration. In accordance with section 33(a)(1), any appeal of this interpretation must be in accordance with 7 C.F.R. part 11.